



STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF EDUCATION
JUDY A. JEFFREY, DIRECTOR

August 1, 2006

The Honorable Michael O. Leavitt
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Mr. Secretary:

We are writing to express Iowa's opposition to proposed changes in the President's fiscal year 2007 Medicaid budget that affect children with disabilities who come from impoverished families. We are also asking you to consider an important issue not addressed in the budget.

Federal Medicaid reimbursement has become an integral part of the funding necessary for school districts to provide health-related services to students with disabilities so they can participate in school along with their non-disabled peers. The following proposed changes would significantly reduce school district funding for critical services to students with disabilities:

- Elimination of Medicaid administrative funding for school-based programs. The federal government has encouraged states' outreach activities to identify, evaluate, and provide referral services to students and families in need of medical assistance. School districts are often the closest and most accessible source of medical assistance that can positively affect all aspects of a child's life. This change will discourage and inhibit such outreach.
- Elimination of special transportation as a Medicaid eligible service for more severely disabled students in school-based programs. This change will increase the financial burden on school districts that must meet the special transportation needs of students with disabilities to ensure they receive appropriate medical services.
- Institution of "payer of last resort" rules for school-based programs. The budget states: "By statute, Medicaid is the payer of last resort, and should only be billed after all other liable parties have reimbursed their share of the claim. Statute and regulation require states to ensure that Medicaid recipients avail themselves of all other resources—legally responsible third parties—to pay for their medical needs before using Medicaid." In the context of school-based services, this would be inconsistent with IDEA and the federal regulations currently implementing IDEA, which prohibit public agencies from billing third party insurers without parental permission. The

school district must fully inform the parent and be assured they understand the ramifications of providing consent. The IDEA guarantee of a free appropriate public education (FAPE) means that the parent cannot be required to pay for IDEA services, directly or indirectly. There needs to be a waiver or exception to the third party payer requirements for Medicaid eligible services provided in school-based programs.

- Maintenance of the federal commitment to IDEA. The proposed budget asserts that the original intent of IDEA would be maintained while ensuring appropriate use of federal funds. When IDEA was enacted in 1975 the intent of Congress was to fully fund the mandates under the new law. Over time, full funding of IDEA was defined as 40 percent of the national average per pupil expenditure. Historically, less than 20 percent of the mandated costs have been funded. The intent of amending Title XIX of the Social Security Act was to provide other federal resources to assist in meeting the original IDEA funding commitment. Even with Medicaid funding, states still do not receive anywhere near 40 percent of their mandated costs. Until IDEA is funded as originally intended, Medicaid is a critical source of funding for services provided by school districts to children with disabilities.

We also urge you to consider the following Medicaid issue not addressed in the proposed 2007 Medicaid budget:

- Revision of federal standards for speech language pathologists. This is a glaring example of the conflict between IDEA and Medicaid requirements. IDEA, and federal programs in general, defer to state-established standards for credentialing service providers. However, under the Medicaid program, standards for school-based speech and audiology services differ from the standards acceptable under IDEA. We strongly urge you to defer to state standards and treat as final and binding determinations regarding the medical necessity of an item or service made by state licensed or certified providers working in an educational program or setting.

Thank you for your attention to this important matter. If you have any questions, please feel free contact us at judy.jeffrey@iowa.gov, 515-281-3436, or kconcan@dhs.state.ia.us, 515-281-5452.

Sincerely,



Judy Jeffrey
Director
Iowa Department of Education



Kevin W. Concannon
Director
Iowa Department of Human Services

Cc: Iowa Congressional Delegation